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Home Loan Mortgage Corporation

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

COUNTY OF MULTNOMAH,

Plaintiff,

v.

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,** a Delaware corporation, et al.,

Defendants.

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,**

Defendant/Counterclaim-Plaintiff,

v.

COUNTY OF MULTNOMAH,

Plaintiff/Counterclaim-Defendant,

and

Case No. 3:15-cv-01246-PK

**COUNTERCLAIM-DEFENDANT
FEDERAL HOME LOAN
MORTGAGE CORPORATION'S
ANSWER AND AFFIRMATIVE
DEFENSES TO COUNTERCLAIMS**

**FEDERAL HOME LOAN MORTGAGE
CORPORATION, and FEDERAL NATIONAL
MORTGAGE ASSOCIATION,**

Counterclaim-Defendants.

In response to the counterclaims alleged in Counterclaim Plaintiff Mortgage Electronic Registration Systems, Inc.'s ("MERS") Answer and Affirmative Defenses and Counterclaims ("the Counterclaims"), Counterclaim Defendant Federal Home Loan Mortgage Corporation ("Freddie Mac") admits, denies, and affirmatively alleges as follows.

1. Freddie Mac admits the allegations in Paragraph 1 of the Counterclaims.
2. Freddie Mac admits the allegations in Paragraph 2 of the Counterclaims.
3. Freddie Mac admits the allegations in Paragraph 3 of the Counterclaims.
4. Paragraph 4 states conclusions of law, and therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in the first sentence of Paragraph 4 of the Counterclaims. Freddie Mac further admits that, to the extent that plaintiff Multnomah County in its Third Amended Complaint seeks to invalidate recorded Freddie Mac deeds of trust and/or deprive Freddie Mac of the priority of its lien, Freddie Mac has an interest that would be affected by the counterclaims.

5. Paragraph 5 states conclusions of law, and therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in the first sentence of Paragraph 5 of the Counterclaims. Freddie Mac further admits that, to the extent that the Third Amended Complaint seeks to invalidate recorded Fannie Mae deeds of trust and/or deprive Fannie Mae of the priority of its lien, Fannie Mae has an interest that would be affected by the counterclaims.

6. Freddie Mac admits the allegations in Paragraph 6 of the Counterclaims.

7. Paragraph 7 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 7.

8. Paragraph 8 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 8.

9. Paragraph 9 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 9.

10. Paragraph 10 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 10.

11. Paragraph 11 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 11.

12. Freddie Mac admits the allegations in Paragraph 12 of the Counterclaims.

13. Paragraph 13 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac refers to the Governing Documents for the contents thereof.

14. Paragraph 14 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits that MERS is

permitted to serve as the nominee on a deed of trust for the Lender and for any successors and assigns of the Lender, who are also members of the MERS® System.

15. Freddie Mac admits the allegations in Paragraph 15 of the Counterclaims.

COUNT I

Declaratory Relief

16. Paragraph 16 incorporates the allegations of the previous paragraphs 1 through 15 and no additional response is required. To the extent a response is required, Freddie Mac incorporates its previous answers to paragraphs 1 through 15 above, as if fully set forth herein.

17. Freddie Mac lacks sufficient information and belief to admit or deny the allegations in Paragraph 17 of the Counterclaims.

18. Freddie Mac lacks sufficient information and belief to admit or deny the allegations in Paragraph 18 of the Counterclaims.

19. Freddie Mac refers to the Freddie Mac Trust Deed attached to the Counterclaims as Exhibit 1 for the contents thereof. Freddie Mac further admits that it currently holds the Freddie Mac note, which is secured by the Freddie Mac Trust Deed recorded on February 10, 2014.

20. Freddie Mac admits the allegations in Paragraph 20 of the Counterclaims.

21. Freddie Mac refers to the Freddie Mac Trust Deed for the contents thereof.

22. Freddie Mac admits that the Freddie Mac Trust Deed was presented and accepted for recording, and that presumably the County determined that all of the legal requirements for recording a trust deed were met.

23. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 23, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

24. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 24, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

25. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 25, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

26. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 26, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

27. Paragraph 27 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac refers to the decision in

Niday for the holding thereof. Freddie Mac further admits that it is not counter to public policy or Oregon law for MERS to be designated as the beneficiary on a trust deed as the nominee for the lender and its successors and assigns.

28. Paragraph 28 states a conclusion of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac refers to the decisions in *Brandrup* and *Niday* for the contents thereof.

29. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 29, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

30. Freddie Mac admits the allegations in Paragraph 30.

31. Freddie Mac admits the allegations in Paragraph 31.

32. Paragraph 32 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits that MERS is seeking such relief.

COUNT II

Declaratory Relief

33. Paragraph 33 incorporates the allegations of the previous paragraphs and no additional response is required. To the extent a response is required, Freddie Mac incorporates its previous answers, as if fully set forth herein.

34. The allegations of paragraph 34 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 34 and, therefore, denies the same.

35. The allegations of paragraph 35 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 35 and, therefore, denies the same.

36. The allegations of paragraph 36 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 36 and, therefore, denies the same.

37. The allegations of paragraph 37 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

38. The allegations of paragraph 38 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to Exhibit B to the Counterclaims for the contents thereof.

39. The allegations of paragraph 39 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to Exhibit B to the Counterclaims for the contents thereof.

40. The allegations of paragraph 40 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to Exhibit B to the Counterclaims for the contents thereof.

41. The allegations of paragraph 41 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 41 and, therefore, denies the same.

42. The allegations of paragraph 42 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

43. The allegations of paragraph 43 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

44. The allegations of paragraph 44 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

45. The allegations of paragraph 45 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac admits that it is not counter to public policy or Oregon law for MERS to be designated as the beneficiary on a trust deed as the nominee for the lender and its successors and assigns.

46. The allegations of paragraph 46 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent that a response is required, Freddie Mac refers to the decisions in *Brandrup* and *Niday* for the contents thereof.

47. The allegations of paragraph 47 are directed against a third-party defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

48. The allegations of paragraph 48 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

49. The allegations of paragraph 49 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

50. The allegations of paragraph 50 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

AFFIRMATIVE DEFENSES

For its affirmative defenses, Freddie Mac states as follows:

FIRST AFFIRMATIVE DEFENSE

(Affirmative Defenses Reserved)

51. Freddie Mac alleges that at this time it has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Freddie Mac, therefore, reserves the right to assert additional affirmative defenses in the event that discovery indicates they would be appropriate.

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WHEREFORE, Freddie Mac prays for a judgment from this Court:

1. That protects Freddie Mac's rights and interests under its Trust Deed and Note, finding that the Freddie Mac Trust Deed is a valid lien.
2. That protects Freddie Mac's rights and interests under its Trust Deed and Note, finding that, Freddie Mac, as the current holder of the Freddie Mac Note, is entitled to the priority of the lien that was obtained when the Freddie Mac Trust Deed was recorded on February 10, 2014.
3. For such relief as this Court deems appropriate; and,
4. Awarding Freddie Mac its costs and disbursements, and its reasonable attorney's fees, to the extent allowed by law, and expenses incurred in defending this action.

DATED: July 23, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2015, I served a copy of the foregoing COUNTERCLAIM-DEFENDANT FEDERAL HOME LOAN MORTGAGE CORPORATION'S ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS on the attorneys for the parties listed below by causing a true copy thereof to be sent to each attorney's last known e-mail address as specified below:

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